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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,650	12/17/2001	Errol D'Souza	4665/7	1844

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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/022,650	<b>Applicant(s)</b> D'SOUZA ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/2/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Lawler et al. (U.S. Patent No. 5,907,323).

Referring to claim 1, Schein discloses receiving an editorial content index page and an editorial content item at a client device (see Column 7, Lines 39-43 for a board located at the viewer's television set (client device) for receiving program guide information). The examiner notes that the applicant's disclosure of "editorial content" is broad and encompasses "a wide variety of opinions and facts regarding programming, typically entertainment and other audio/video information, distributed over a distribution network such as a cable television network". Schein discloses that program schedule information is transmitted to a client device (see again Column 7, Lines 39-43), and that the program schedule information is kept in a database (Column 7, Lines 16-19), and the database contains a N.E.W.S. (news, entertainment, weather, and sports) database, which includes story text and story ids. This data constitutes as "editorial content" as stated by the applicant, since news (as well as sports, weather, and reviews (opinions of programs) data stored in the database, inherently contains facts relating to programming content.

Schein also discloses that while the electronic program guide is displayed (see display of element 502, which is an electronic program guide in Figure 16A), selecting a control to present the editorial content index page on the display device (see element 512 in Figure 16A, which provides a scrolling list of options shown in Figure 20A, in which "World of Services" has been selected), the editorial content index page comprising a link to the editorial content (see Figure 20B for a list of "editorial content"). The examiner notes that the index of editorial content displayed in Figure 20B inherently contains facts and opinions about specific programming.

Schein also discloses selecting a link to an editorial content item from the set of one or more links (see Column 23, Lines 50-64) and Figures 20B and 20C to show selection of a message containing editorial content).

Schein also discloses presenting the editorial content item on the display device (see Figure 20C).

Although Schein discloses accessing editorial content items (see above) and tuning to a video-on-demand channel (see Figures 18A-18E), but fails to teach tuning the client device to a video-on-demand channel if the editorial content item of the selected link comprises a video item.

Lawler discloses focusing (selecting) a program tile 88 (selected link) in Figure 3A, where a program tile (selected link) can be a link to an editorial content item (see the Sportscenter tile in Figure 3B and a "news-on-demand" channel at Column 9, Lines 49-56). Lawler further teaches that the system tunes to the selected programming and displays it on video display set 18 within preview display window 94 (see Column 6, Lines 48-51). Therefore, Lawler teaches tuning the client device to a video-on-demand channel (see Column 9, Lines 49-56) if the editorial content item (news-on-demand) of the selected link (the program tile 88 in Figure 3A) comprises a video item (the content of the news-on-demand channel or the video preview that can be displayed (see Column 6, Lines 54-55 and Lines 57-61 and Column 9, Lines 49-56).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the editorial content program guide, as taught by Schein, using the tuning method, as taught by Lawler for the purpose of providing video

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programming information that viewers have not previously been able to obtain for selected programming (see Column 3, Lines 10-12 of Lawler).

Referring to claim 2, Schein discloses that the editorial data comprises graphics data (see element 528 in Figures 20A-20C and Column 22, Lines 3-8 for a description of a preview window, which contains graphics that are displayed in accordance with what is highlighted in matrix 506), and rendering the graphics data (see element 124 in Figure 3 and Column 8, Lines 58-67 and Column 9, Lines 1-18).

Referring to claim 3, Schein discloses that the editorial content item comprises video data (see element 528 in Figures 20A-20C and Column 22, Line 3-8 for a description of a preview window, which contains video that is displayed in accordance with what is highlighted in matrix 506).

Referring to claim 4, Schein discloses that the editorial content item comprises interactive program code (see presenting a "super mall" for purchasing products at Column 23, Lines 46-48) and wherein presenting the editorial content comprises executing the interactive program code (see Column 23, Lines 55-65 for accessing a special database that provides additional information from an online service provider or the Internet when "headline news" is selected).

Referring to claim 5, Schein discloses that the interactive program code comprises functionality that allows a client device to interact with a remote program code and data (see rejection of claim 4 in relation to accessing an online service provider or the Internet upon selection of "headline news").

Referring to claim 6, Schein discloses determining a type of the editorial content item (see Figure 20B for selecting either “Headline News”, “Sports”, or “Music Videos” for example). It is inherent that the system knows which item is being chosen for display.

Schein also discloses selecting a rendering program based on the type of the editorial content item (see Figure 20C for displaying items related to “Headline News”). Also note element 124 in Figure 3 for formatting certain information to be displayed based on which program has been selected (see Column 8, Lines 58-67 and Column 9, Lines 1-18).

Schein also discloses executing the rendering program to present the editorial content item on the display device (see Figure 20C after the selection of “Headline News” in Figure 20B).

Referring to claim 7, see rejection of claim 1. Also note that pointers are analogous to links as described in claim 1.

Referring to claim 8, Schein discloses receiving the editorial content index page and an editorial content item at a client device on a periodic basis (see Column 2, Lines 62-67 for downloading the television schedule at a specified time).

Referring to claim 9, Schein teaches that the database information that comprises the electronic program guide is sent in a carousel fashion (see Column 12, Lines 38-40).

Referring to claim 10, Schein discloses exiting the editorial content index page (see Column 13, Lines 18-20 for a description of how every screen has an exit function).

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Schein also discloses presenting the electronic program guide and editorial content control upon exiting the editorial content index page (for example, if the user exits Figure 20B, he/she can then go back to Figure 20A, which contains the program guide and content control).

Referring to claim 11, Schein discloses exiting the editorial content index page (see Column 13, Lines 18-20 for a description of how every screen has an exit function). Schein also discloses presenting a channel displayed on the display device when the step of presenting the electronic program guide is executed (see program area 526 in Figure 16A and Column 22, Lines 3-5).

Referring to claim 12, see rejection of claim 1. Also note that Schein discloses a preview area 528 at Column 22, Lines 5-8, which concurrently displays program information with a tuned channel (see program area 526 at Column 22, Lines 3-5).

Referring to claims 13-14, see rejection of claims 10-11, respectively.

Referring to claim 15, see rejection of claim 1.

Referring to claim 16, see rejection of claims 1 and 2.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2614

September 14, 2005

*Jason Salce*  
9-14-05